



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Group Art Unit No.: 3629

Nicholas GROSS

Examiner: Ruhl, Dennis W.

Serial No.: 10/771,049

Confirmation No.: 1525

Filed on: 02/02/2004

For: NOTIFICATION SYSTEM AND METHOD
FOR MEDIA QUEUE

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

DECLARATION OF NEIL D. HUNT UNDER 37 C.F.R. 1.132

I, NEIL D. HUNT, declare:

1. I am Chief Product Officer of Netflix, Inc., a Delaware corporation, having a headquarters location at 100 Winchester Circle, Los Gatos, California. I have been a Netflix employee continuously since January 25th, 1999.
2. Netflix is the world's largest online movie rental service, offering more than 6.3 million subscribers access to 75,000 titles. The Netflix service is accessible on the Internet at the address www.netflix.com. Netflix has achieved success in part by providing the most expansive selection of DVDs, an easy way to choose movies and fast, free delivery. Netflix has been named the #1 rated Web site for customer satisfaction for three consecutive periods, according to a semi-annual survey by ForeSee Results and FGI Research in the spring of 2005 and the winter and spring of 2006. In the fall of 2005, Fast Company named Netflix the winner of its annual Customers First Award. Shares in Netflix trade on NASDAQ under the symbol NFLX.
3. I am aware that the above-referenced patent application is claiming a method of notifying a subscriber about activity in a subscriber rental queue. In particular, the applicant has represented in writing to Netflix that the claims allegedly cover methods of notifying the subscriber that the subscriber's queue has become empty. At least as early as December 16,

2002, Netflix created, implemented, tested, and placed in public use, a computer-implemented method of notifying a Netflix subscriber that the subscriber's queue had become empty.

4. Attached as Exhibit 1 is a true and correct copy of a graphical composition entitled "No movies selected." The upper right portion of Exhibit 1 includes a subscriber notification of the form, "You have no movies left ... please choose more>>." At least as early as December 16, 2002, Netflix created, implemented, tested, and placed in public use, a computer system that generated electronic mail messages to subscribers containing the composition of Exhibit 1. An e-mail containing the composition of Exhibit 1 informed a subscriber that the subscriber's queue was empty and the subscriber needed to select more movies for future delivery.

5. Attached as Exhibit 2 is a true and correct copy of a graphical composition entitled "We Shipped Your Last Movie." The upper left portion of Exhibit 2 contains a subscriber notification of the form, "We just shipped the last movie you have selected to rent. Please come choose more movies so we have something to send you." The upper right portion of Exhibit 2 includes a subscriber notification of the form, "You have no movies left ... please choose more>>." The right side of Exhibit 2 includes a subscriber notification in the form of three (3) empty boxes, normally showing graphical representations of movie artwork, and indicating that no movies are in the subscriber's queue. At least as early as December 16, 2002, Netflix created, implemented, tested, and placed in public use, a computer system that generated electronic mail messages to subscribers containing the composition of Exhibit 2. An e-mail containing the composition of Exhibit 2 informed a subscriber that the subscriber's queue was empty and the subscriber needed to select more movies for future delivery.

6. Attached as Exhibit 3 is a true and correct copy of a graphical composition entitled "It's in the mail." The upper left portion of Exhibit 3 contains a subscriber notification of the form, "We just shipped Spider-Man (2002), but we wanted to let you know that your Rental Queue is getting low. Please come choose more movies so we have something to send you." The upper right portion of Exhibit 3 includes a subscriber notification of the form, "You

only have 1 movie left ... Please choose more>>.” The right side of Exhibit 3 includes a subscriber notification in the form of two (2) empty boxes, normally showing graphical representations of movie artwork, and one graphical representation of the movie “Awakenings,” indicating that only one movie is in the subscriber’s queue. At least as early as December 16, 2002, Netflix created, implemented, tested, and placed in public use, a computer system that generated electronic mail messages to subscribers containing the composition of Exhibit 3. An e-mail containing the composition of Exhibit 3 informed a subscriber that the subscriber’s queue was low and the subscriber needed to select more movies for future delivery.

7. I am informed and believe that Exhibits 1, 2, and 3, and the computer systems that generated them as part of e-mail communications to Netflix subscribers, qualify as prior art to the above-referenced application and may invalidate one or more claims on the basis of earlier public use.

8. At least as early as December 16, 2002, computer systems of Netflix generated and distributed electronic mail messages containing the compositions of Exhibits 1, 2, and 3. Netflix computer systems distributed or published such messages and compositions to thousands of subscribers. I am informed and believe that Exhibits 1, 2, and 3 qualify as prior art printed publications to the above-referenced application.

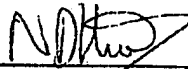
9. The computer systems of Netflix that generated e-mail communications using the compositions of Exhibits 1, 2, and 3 included logic to monitor a subscriber rental queue and to determine when the subscriber rental queue contained one or zero movies. The logic was operable to send an electronic notification to a subscriber in response to an affirmative determination that a notification was necessary because the subscriber rental queue contained one or zero movies.

10. After 2003, Netflix eventually discontinued using notification messages that contained the compositions of Exhibits 1, 2, and 3, and is not presently using such messages.

I DECLARE under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I hereby declare that all statements made herein of my own

knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Executed on: 3/16/2007
(date)

By 
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EXHIBIT 1

NETFLIX

We Shipped Your Last Movie

[Rental Queue](#)
[Recommendations](#)

Your Rentals

We just shipped the last movie you have selected to rent.
Please come choose more movies so we have something
to send you.



You have no movies left
Please [choose more>>](#)



Spider-Man (2002)

Arriving on or around: Thursday, Jun 27 2002

No Movie Selected

1
Empty

No Movie Selected

2
Empty

No Movie Selected

3
Empty

Find a Movie

SEARCH:

SEARCH

OR

BROWSE: [Recommendations](#)
[Critics' Picks](#)
[Genre](#)

[Member Favorites](#)
[Netflix Top 100](#)
[AFI Top 100](#)

[See all selected movies >>](#)

Search

EXHIBIT 2

NETFLIX

No Movies Selected

[Rental Queue](#)
[Recommendations](#)

Your Rentals

We just received the last movie you have selected to rent
Please come choose more movies so we have something
to send you



You have no movies left
Please [choose more>>](#)

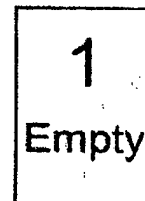


Spider-Man (2002)

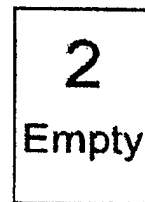
Rate It Now!



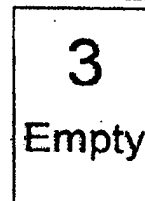
No Movie Selected



No Movie Selected



No Movie Selected



Find a Movie

SEARCH:

SEARCH

OR

BROWSE:

[Recommendations](#)
[Critics' Picks](#)
[Genre](#)

[Member Favorites](#)
[Netflix Top 100](#)
[AFI Top 100](#)

[See all selected movies >>](#)

Search

EXHIBIT 3

NETFLIX**It's in the mail**[Rental Queue](#)
[Recommendations](#)**Your Rentals**

We just shipped **Spider-Man (2002)**, but we wanted to let you know that your Rental Queue is getting low. Please come choose more movies so we always have something to send you.

**Spider-Man (2002)**

Arriving on or around: Thursday, Jun 27 2002

Below are some suggestions to help you find movies.

New Releases**Minority Report****Rent****Spider-Man****Rent****Monsters Inc.****Rent****MIB II****Rent****Browse the Site**[Action & Adventure](#)[Anime](#)[Children & Family](#)[Classics](#)[Comedy](#)[Documentary](#)[Drama](#)[Foreign](#)[Horror](#)[Indie](#)[Music & Concert](#)[Romance](#)[Sci-Fi & Fantasy](#)[Special Interest](#)[Sports](#)[Television](#)[Thrillers](#)[See ALL Genres](#)[See all selected movies >>](#)

You only have 1 movie left
Please [choose more>>](#)

Awakenings**No Movie Selected****2****Empty****No Movie Selected****3****Empty**Search

Attachment 2

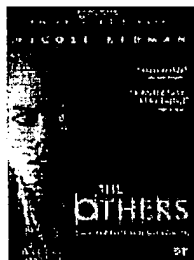
Marc Matsumoto

From: Netflix [info@netflix.com]**Sent:** Saturday, July 06, 2002 1:58 AM**To:** hammeraudit@netflix.com**Subject:** HAMMER AUDIT: Account Alert: No movies selected (NF Welcome Day 3 C(105943) start 02/JUL/2002 00:00:00)**Account Status:** Active**Account Alert:** No Movies Selected

<u>Code</u>	<u>Reason</u>
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4452	-- Movie Selection Needed
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Your account has been active for 3 days, but we haven't been able to send you any movies yet because you haven't added any movies to your Rental Queue. Remember, there are no due dates so you can order the movies now and watch them whenever you're ready.

Rent one of these new releases:**Rent****Rent****Rent****Or search for movies by title or actor:**Search for a movie:

Browse by genre:

[Action & Adventure](#)[Children & Family](#)[Classics](#)[Comedy](#)[Drama](#)[Foreign](#)[Horror](#)[Indie](#)[Music & Concert](#)[Romance](#)[Sci-Fi & Fantasy](#)[Special Interest](#)[Thrillers](#)[All Genres](#)

We are committed to protecting your privacy. We will not sell, rent or disclose your personally identifying information to third parties without notifying you of our intent to share the information and giving you an opportunity to prevent your information from being shared. You can review our [privacy policy](#) anytime.

SRC: NFWELW1D3C
©2002 Netflix, Inc.

[Unsubscribe](#)

This message was mailed to [REDACTED]

7/8/2002